

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

Preamble:

The preamble is the introductory part of the Protocol which sets out the object and purpose of the Protocol. It refers to the principles of equality and non-discrimination as embodied in the UN Charter, the Universal Declaration of Human Rights, and other international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women. It reaffirms the determination of States parties which adopt the protocol to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms and to take effective action to prevent violations of these rights and freedoms.

Article 1

Establishes that States who become parties to the optional protocol recognise the competence of the Committee to receive and consider communications under the protocol.

Article 2

Provides a Communications Procedure which allows either individuals or groups of individuals to submit individual complaints to the Committee. Communications may also be submitted on behalf of individuals or groups of individuals, with their consent, unless it can be shown why that consent was not received.

Article 3

Establishes that a communication will only be considered by the Committee if it concerns a country that has become party to the protocol. In addition, a communication must be submitted in writing and may not be anonymous.

Article 4

Stipulates admissibility criteria of communications. Before a complaint is considered, the Committee must determine that all available domestic remedies have been exhausted and the complaint is not, nor has been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement. In addition, a complaint will only be admissible provided the complaint is compatible with the provisions of the Convention; is not an abuse of the right to submit a communication; the claimants' allegations can be substantiated, and the facts presented occurred after the State party ratified the Protocol.

Article 5

After receipt of a communication and prior to its final decision, the Committee has the option of contacting the State Party with an urgent request that the State Party take steps to protect the alleged victim or victims from irreparable harm.

Article 6

Establishes the communications procedure. Where a communication has been found admissible, the Committee will confidentially bring a communication to the attention of the State Party, provided the complaint has consented to disclosure of their identity to the State Party. The State Party is given six months to provide a written explanation or statement to the complaint.

Article 7

Outlines the process of complaint consideration. The Committee will examine and consider all information provided by a complaint in closed meetings. The Committee's views and recommendations will be transmitted to the parties concerned. The State Party has six months to consider the views of the Committee and provide a written response, including remedial steps taken. The Committee may request further information from the State Party, including in subsequent reports.

Article 8

Establishes an inquiry procedure that allows the Committee to initiate a confidential investigation by one or more of its members where it has received reliable information of grave or systematic violations by a State Party of rights established in the Convention. Where warranted and with the consent of the State Party, the Committee may visit the territory of the State Party. Any findings, comments or recommendations will be transmitted to the State Party concerned, to which it may respond within six months.

Article 9

Establishes a follow-up procedure for the Committee. After the six-month period referred to in article 8, the State Party may be invited to provide the Committee with details of any remedial efforts taken following an inquiry. Details may also be provided in the State Party report to the Committee under article 18 of the Convention.

Article 10

Provides an opt-out clause. At ratification of the Optional Protocol, a State Party has the option of refusing to recognize the competence of the Committee to initiate and conduct an inquiry as established under articles 8 and 9. However, this declaration may be withdrawn at a later time.

Article 11

Requires a State Party to ensure the protection of those submitting communications.

Article 12

A summary of the Committee's activities relating to the Protocol will be included under article 21 of the Convention.

Article 13

Establishes a requirement that States Parties widely publicize the Convention and its Protocol and provide access to the views and recommendations of the Committee.

Article 14

Requires the Committee to develop its own rules of procedure when dealing with communications and inquiries considered in accordance with the Optional Protocol.

Article 15

Governs eligibility for States to sign, ratify or accede to the Protocol. Any State Party that is party to the Convention may become party to the Protocol.

Article 16

Establishes that a minimum of ten countries must have ratified or acceded to the Protocol before the Protocol enters into force. The Protocol will enter into force three months after the 10th ratification or accession.

Article 17

Provides that there shall be no reservations to the Protocol.

Article 18

Establishes procedures for amending the Protocol. Any State Party may suggest amendments to be sent to the Secretary-General of the United Nations to be communicated to all States Parties to the Protocol. If requested by a minimum of one-third of States Parties, a conference may be convened to discuss and vote on any amendments. With the support of a two-thirds majority and the General Assembly, an amendment comes into force and is binding on States that have accepted the amendments.

Article 19

Provides for a State Party to withdraw from the Protocol by written notification to the Secretary-General. Withdrawal will not impact any communications submitted prior to the effective date of withdrawal.

Article 20

States that the Secretary-General of the United Nations shall inform States of signatures, ratifications and accessions, the date the Protocol comes into force and any amendments and withdrawals.

Article 21

Provides that the Protocol will be deposited in the United Nations archives, made available in Arabic, Chinese, English, French, Russian and Spanish and sent to all States Parties by the Secretary General.